S.B.CRIMINAL MISC. PETITION NO.114/2007
(Radha Kishan & Ors. Vs. State of Raj.& Anr.)

Date of order : : 07.05.2007

HON'BLE MR. KRISHAN KUMAR ACHARYA, J.

Mr.N.K.Goyal, for the petitioners.
Mr.Ashok Upadhyay, PP for the State.
Mr.Pradeep Choudhary for
Mr.J.S.Choudhary, for the respondent No.2.

This misc. petition under Section 482 Cr.P.C. has been filed by the petitioners, total 23 in numbers, for quashing the FIR No. 239/2006 registered at Police station Loonkaransar for offence under Sections 447, 147, 148, 149, 382, 354, 336 IPC and under Section 3 (i)(x)(xi) of the SC/ST Act.

Learned Public Prosecutor has presented before me the factual report of the case. The Investigating Officer after complete investigation has found the offence proved under Sections 447, 382, 336, 147, 148, 149 IPC and 3(i)(x) SC/ST Act against the accused-petitioner Radha Kishan; and offence under Sections 447, 382, 354, 147, 148, 149 IPC and under Section 3(i)(x)(xi) of the SC/ST Act against the accused petitioner Dhannaram; and offence under Sections 447, 382, 147, 148,

149IPC and 3(i)(x) of the SC/ST Act against the accused-petitioners Lichman Ram, Dularam, Ptha Ram, Pura Ram, Likhram, Likhma Ram, Begaram, Rewat Ram, Bhera Ram, Parma Ram, Sohan Ram, Koju Ram, Prem Nath, Jagdish Nath, Tulcha Ram, Ganga Ram, Chetan Ram, Mohan Ram; and offence under Sections 447, 382, 147, 148, 149 IPC against the accused-petitioners Bhudha Ram, Arjun Ram, Tiku Ram, Gomad Ram. It further appears from the factual report that two accused persons, namely, Radha Kishan and Lichman Ram were arrestd in this case and Guwar crop was also recovered. 21 accused has to be arrested and recovery has also to be done.

The police has recorded the statement of witnesses and also brought on record certain documents and judgments of courts in relations to the litigation of land in question.

From the perusal of the FIR, it cannot be said that no cognizable offence has been committed. The allegations in the complaint prima facie satisfy the essential ingredients of the offence alleged. The Hon'ble Supreme Court has held in catena of judgment that this Court is not entitled to appreciate the

evidence collected in course of investigation. In the case of M.L.Bhatt V. M.K.Pandita & Ors. Reported in JT 2002(3) SC 89, the Hon'ble Supreme Court has held as under:-

> "That the High Court exceeded its jurisdiction and the parameters prescribed in a catena of decisions where a Court could be justified in quashing the FIR. At this stage, the High Court would be entitled to only examine the allegations made in the FIR and would not be entitled to appreciate by way of shifting the materials collected in course of investigation including the statement recorded under Section 161 of the Code of Criminal Procedure."

Since from the FIR itself, it appears that cognizable offence has been committed and the allegations in the complaint prima facie satisfy the essential ingredients of the offence alleged, I need not to appreciate the material collected during investigation while exercising power under Section 482 Cr.PC. This misc. petition has not force and therefore, the same is hereby dismissed.

(KRISHAN KUMAR ACHARYA), J.

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